



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

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Consultation on proposed changes that the Building Safety Act 2022 will make to the Regulatory Reform (Fire Safety) Order 2005 as set out in Section 156 of the Act.

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 24 February 2023 *Commencement of section 156 of the UK Building Safety Act 2022 in Wales*.

NFCC is the professional voice of the UK fire and rescue services (FRSs) and is comprised of a council of UK Chief Fire Officers. This response was put together by NFCC's Protection and Reform Unit (PRU).

This response was drafted in consultation with our members across Welsh FRSs and reflects their expertise and competence on the subject matter.

General Comments

NFCC is generally supportive of the proposals within this consultation. We agree that the proposals meet the policy intent of improving the safety in all multi-occupied residential buildings in Wales, from design and construction, through to occupation and how they are maintained. However, we hold some concerns relating to the new duties for responsible persons, and the importance of alignment and compatibility in England and Wales when establishing competence requirements for fire risk assessors.

New Duties

It is difficult for NFCC to predict how easy or difficult it will be for responsible persons to discharge the new duties outlined in the consultation, with effect from October 2023. We do not believe that the requirements of Section 156 are disproportionately onerous for responsible persons. The requirements are either an extension of what is already required or a formalisation of what is already carried out. Where requirements are entirely new, they are limited in nature.

However, in some cases, specific elements of Section 156 may require additional guidance to responsible persons to help them to comply. For example, guidance to support them to comply with the new requirements where the responsible person is not based in the UK and does not have a representative here. Given this, it is difficult for us to be definitive about how easy each duty is likely to be for the responsible person to discharge. The introduction of Article 9A also presents an outstanding issue, as the specific competence requirements for fire risk assessors are yet to be finalised and adopted by the industry.

Alignment and Compatibility in England and Wales

NFCC notes that the Fire Risk Assessor Strategy Working Group is currently working on establishing competence requirements for fire risk assessors. We believe that aligning the foundations of competence across qualification providers, accrediting bodies, and their schemes will help responsible persons identify competent assessors.

It is crucial that competence must be understood in a way that is compatible in both England and Wales, given that the risk assessment industry operates across borders. Welsh government should wait until the ongoing efforts to establish competence requirements for fire risk assessors are completed before commencing the requirement that anyone appointed to do a fire risk assessment is a competent person.

Yours sincerely,



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Organisation Information

Your name:

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The NFCC is a UK-wide organisation, and our members include Chief Fire Officers and other senior members from fire and rescue services across England, Wales, Scotland, and Northern Ireland.

Questions

Question 1 – Are you a ‘responsible person’ for the purposes of the Regulatory Reform (Fire Safety) Order 2005?

No

Question 2a: Do you envisage any difficulties or obstacles for responsible persons in discharging the new duties outlined in the consultation, with effect from October 2023?

Unsure

Question 2b: If you have answered ‘yes’, please explain what you see those difficulties to be and what you consider a reasonable timeframe would be for putting those in place.

It is difficult for NFCC to be definitive about how easy each duty is likely to be for the responsible person to discharge.

The requirements of Section 156 do not appear to be disproportionately onerous for responsible persons. The requirements are either an extension of what is already required or a formalisation of what is, in many cases, already carried out. Where requirements are entirely new, they are limited in nature.

In some cases, specific elements of Section 156 may require additional guidance to responsible persons to help them to comply. For example, guidance to support them to comply with the new requirements where the responsible person is not based in the UK and do not have a representative here. Given that, in our experience, specific details are going to further defined in additional regulations or guidance, it is difficult for us to be definitive about how easy each duty is likely to be for the responsible person to discharge.

Another concern, which is an outstanding issue, is the introduction of Article 9A as the specific competence requirements for fire risk assessors are yet to be finalised and adopted by the industry. Welsh FRSs are currently informed about the ongoing efforts in this area and are actively involved in the Fire Risk Assessor Strategy Group. While there is guidance available for the selection of a competent fire risk assessor, the industry's fragmented nature makes it challenging for responsible persons to identify suitable candidates for the task.

Question 3: Do you have any views on what is meant by a competent fire risk assessor and the types of qualifications they would require to be deemed competent?

NFCC would like to highlight that the Fire Risk Assessor Strategy Working Group, chaired by the Home Office, is currently working on establishing competence requirements for fire risk assessors. Despite the availability of competence requirements for over a decade, there has been no regulation or compulsion in the industry to ensure their adoption. This has led to varying competence requirements between registration bodies, qualifications, and progression pathways, making it challenging for responsible persons to identify competent assessors.

To help responsible persons identify competent assessors, the industry has produced a Code of Practice for competence and established a benchmark standard. This will give a broad idea of what competence looks like for different types of premises. However, there is still much work to be done in defining and setting pathways for achieving competence.

To align the foundations of competence, qualification providers, accrediting bodies, and their schemes are being brought together. Once this is completed, the industry must adopt the standards, qualifications, or schemes to align the definition of a competent fire risk assessor and the required qualifications.

We believe that as the risk assessment industry operates across borders and many responsible persons have duties for premises in both England and Wales, it is crucial that competence must be understood in a way that is compatible in both countries.

Question 4: Do you have any views on when we should commence the requirement that anyone appointed to do a fire risk assessment is a competent person?

The requirement to ensure that fire risk assessors are competent applies to both England and Wales, and as many assessors work in both countries, any commencement should occur simultaneously to ensure consistency.

While NFCC acknowledges the need to implement the requirement, it may be more practical to wait until our concerns raised in Question 3 above are addressed. However, NFCC believe that a staged approach to introduction would ensure that this section could be implemented as soon as practicable. Those that are highest risk are at greater need for competency of fire risk assessors. NFCC believes that the introduction of mandatory qualifications and competency should be first aimed at these high-risk premises. This should be co-ordinated across both England and Wales to avoid confusion if the requirements differ between England and Wales. We believe that it is important to avoid such confusion as much as possible.

Question 5: We would like to know your views on the effects that the above proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

N/A – NFCC is not aware of any issues on the effects that the proposed policies would have on the Welsh language.

Question 6: Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

N/A – NFCC is not aware of any issues on how the proposed policies could be formulated or changed to have positive effects or increased positive effects on the Welsh language.

Question 7: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

N/A – NFCC is not aware of any related issues that have not specifically been addressed.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: